



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: MOHEAT, Inc.

File: B-239378

Date: May 3, 1990

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A.L. Haizlip, Esq., for the protester.

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### DIGEST

The General Accounting Office will not consider a protest that is based on what is essentially a dispute between private parties.

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### DECISION

MOHEAT, Inc., protests award of a contract to Corvac, Inc., under solicitation No. DLA200-89-R-0073, issued by the Defense Logistics Agency for disposal services in Corpus Christi, Texas and surrounding locations. MOHEAT asserts that an individual was present at a pre-award survey of Corvac, on behalf of Corvac, while he was still employed by MOHEAT, and that the award to Corvac under such circumstances violates various statutory and regulatory provisions. MOHEAT therefore requests termination of the award to Corvac and the costs of filing and pursuing this protest.

The action complained of by MOHEAT does not constitute any violations of law or regulation that govern the award of contracts by a federal agency since the government is not alleged to have had any part in MOHEAT's former employee's actions. Instead, this is essentially a dispute between private parties which this Office will not adjudicate in the context of a bid protest. Kempter-Rossman Int'l, B-232402.2, Mar. 1, 1989, 89-1 CPD ¶ 213.

To the extent that MOHEAT's complaint is that Corvac's association with the former employee should render Corvac ineligible for award, it involves Corvac's responsibility as

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a prospective contractor. Federal Acquisition Regulation § 9.104-1(d) (FAC 84-18). By awarding a contract to Corvac, the agency determined that Corvac was responsible. Because affirmative determinations of responsibility are generally based on subjective business judgment and therefore are largely discretionary with contracting officials, we do not review challenges to affirmative determinations of responsibility absent a showing of possible bad faith or that definitive responsibility criteria in the solicitation were not met, circumstances which have not been alleged here. 4 C.F.R. § 21.3(m)(5) (1989).

The protest is dismissed.

A handwritten signature in cursive script, reading "Ronald Berger".

Ronald Berger  
Associate General Counsel